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MEMORANDUM ENDORSED

Hon. Gregory H. Woods
United States District Judge
United States Courthouse
Southern District of New York
500 Pearl Street
New York, New York 10007

January 12, 2022

United States v. Sinohe ARAUJO MEZA, et al.
(S5) 16 Cr. 680 (GHW)

Dear Judge Woods:

Counsel writes to the Court on behalf of both Mr. Araujo Meza and his codefendant, Cornelio Cazares Madrid, at the request of Joaquin Perez, Esq., who has filed a Notice of Appearance on his behalf.

In its Order of December 28, 2021, the Court indicated it “expects to establish new deadlines for the parties’ sentencing submissions and a new sentencing date.” It is with respect to this expectation that we now write to the Court. Instead, and for the reasons that follow, we are requesting that the Court set a control date in forty-five (45) days. At that time, we hope to provide the Court with a realistic schedule for the sentencing submissions and a date for sentence. The government does not oppose based upon the facts and circumstances set forth below.

We are sensitive to the fact the Court must no doubt be anxious to sentence these defendants. They pleaded guilty in July 2019, and the Court has granted numerous requests for adjournment of sentencing from both sides.

The primary reason for this request is to permit incoming counsel the ability to review the discovery, related materials and the PSRs, once received, with their clients. This cannot take place currently because incoming counsel has yet to receive the files of outgoing counsel and the MDC, Brooklyn, where the defendants are being held, has

now had to suspend all visits due to the upsurge in COVID cases and its transmissibility via the Omicron variant.

Although incoming counsel filed their Notices of Appearances on December 16, 2021 (D.E. 68 & 69) and requests were made of the outgoing attorneys for their files containing the government's discovery and other materials, that process is continuing. Much of the material furnished to date consists of nothing more than court-filings already available through PACER. Still outstanding seems to be a substantial quantity of important documents in the files from the outgoing attorneys. For example, only today, counsel learned that notes from one of the attorneys, Gretchen Von Helms, Esq., should be forthcoming shortly. The Court may recall that she suffered a serious accident in October 2020. This apparently led to her essentially withdrawing from representing Mr. Araujo Meza for all practical purposes. (See D.E. 64 & 66). Her notes are believed to be critical in defending Mr. Araujo Meza and preparing for his sentence. Counsel has been advised that these will be made available in approximately two (2) weeks from today, once she has been formally relieved by the Court and cleared to return to her practice by her doctors. Similarly, counsel has been made aware of notes from yet another attorney, who did not file a Notice of Appearance, but who was also involved in representing Mr. Araujo Meza in lieu of Ms. Von Helms at some point, are to be forthcoming following the Court permitting the withdrawal of outgoing counsel.

Further, and as the Court will be aware, its December 28, 2021 Order predates the MDC's most recent suspension of all visits. Further complicating the review process is that many if not almost all the documents are in English and will have to be translated into Spanish.

The docket also reflects that the final PSR -- at least regarding Mr. Araujo Meza - was filed October 18, 2019¹. (D.E. 51). It is our understanding that neither defendant has reviewed his PSR. Accordingly, objections need to be formulated.

Thereafter, we would seek an opportunity to narrow the factual issues with the government to ascertain whether a *Fatico* hearing would be necessary based upon any of the objections, or if a hearing could be obviated. For example, it is counsels' understanding that both defendants are currently facing life sentences, due in part to allegations of acts of serious violence. The ability to review the discovery with the defendants on this issue alone could make a significant difference in the Court's ultimate determination of the appropriate sentences.

Finally, with respect to the Court's concern regarding prior adjournments in considering this present request, we ask the Court to bear in mind that it appears that the basis for the earlier requests for adjournment of sentencing was due, at least in part, to health considerations. The worldwide COVID pandemic forced the MDC to initially shut down for legal visits on or about March 13, 2020. As noted earlier, all visits are now

¹ The docket only reflects a final PSR being filed on behalf of one defendant, not both. We have not received the PSR on behalf of Mr. Cazares Madrid, but assume it would have been revised and filed on or about the same date as Mr. Araujo Meza's PSR.

suspended again. Even the Court has had to limit its own activities over the last two (2) years. Further, the Court will recall that Ms. Von Helms' unavailability due to her accident has also contributed to the delay here.

It is for all the foregoing reasons that we are proposing a control date of forty-five (45) days. In making this request, we want the Court to know that we take its orders seriously and that we have no wish to replicate the seemingly cavalier attitude of our predecessors in this regard. Rather, we are also seeking to be mindful of the need to avoid the possibility of potentially lengthy and protracted litigation claiming ineffective assistance of counsel.

We again thank the Court for its kind consideration and look forward to appearing tomorrow to discuss these matters and any other the Court believes would be relevant.

Respectfully submitted,

/s/
HOWARD LEADER

cc: Joaquin Perez, Esq.
Andrea Houle, Esq.,
Assistant United States Attorney (VIA ECF)

Application granted in part. The Court is holding a conference in each of these cases tomorrow. The principal motivation for the Court to schedule the conferences was to discuss the sentencing date and deadlines for the submission of sentencing materials in this case. The Court expects to take up this topic during the conferences.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 78.

SO ORDERED.

Dated: January 12, 2022
New York, New York



GREGORY H. WOODS
United States District Judge